

## Per Diem and Travel Expenses Modifications

(file 2010FL-0152/006)

*(A copy of the draft legislation may be found at <http://www.leg.state.ut.us/> click on Interim Committees, click on Government Operations and Political Subdivisions Interim Committee, click on Related Materials under the November 18, 2009 meeting.)*

### Introduction

This 350-page draft legislation affects 211 sections and amends language for state boards, commissions, councils, and committees to standardize per diem and travel expense provisions. The changes are follow-up to H.B. 45, "Per Diem and Travel Expense for State Boards and Commissions," which passed during the 2009 General Session and which was a recommended bill by the Government Operations Committee during the 2008 interim.

### New Language

The language below replaces old language in an attempt to streamline it and add clarity.

"(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107."

### Current Primary Provisions

#### **63A-3-106. Per diem rates for state officers and employees.**

- (1) As used in this section and Section 63A-3-107:
  - (a) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.
  - (b) "Executive branch" means all departments, divisions, agencies, boards, and offices within the executive branch of state government.
  - (c) "Governmental entity" has the same meaning as provided under Section 63G-2-103.
  - (d) "Higher education" means a state institution of higher education, as defined under Section 53B-1-102.
  - (e) "Officer" means a member of a board or a person who is elected or appointed to an office or position within a governmental entity.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules establishing per diem rates to defray subsistence costs for attendance at an official meeting of a board of which the officer or employee is a member.
- (3) Unless otherwise provided by statute, a per diem rate established under Subsection (2):

- (a) is applicable to an officer or employee of the executive branch, except as provided under Subsection (3)(b);
- (b) is applicable to an officer or employee of higher education, unless higher education pays the costs of the per diem; and
- (c) may be applicable to an officer or employee of a government entity that is not included under Subsection (3)(a), if the government entity adopts the per diem rates by reference to:
  - (i) this section; or
  - (ii) the rule establishing the per diem rates.
- (4) (a) Unless otherwise provided by statute, a member of a board may receive per diem under this section and travel expenses under Section 63A-3-107 when the per diem and travel expenses are incurred by the member for attendance at an official meeting of a board.
- (b) Notwithstanding the provisions of Subsection (4)(a), a member may not receive per diem or travel expenses under this Subsection (4) if the member is being paid as an officer or employee of a governmental entity while performing the member's service on the board.
- (5) A member of a board may decline to receive per diem for the member's service.

**63A-3-107. Travel expenses of executive branch officers and employees.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules governing in-state and out-of-state travel expenses.
- (2) Unless otherwise provided by statute, a travel expense rule established under Subsection (1):
  - (a) is applicable to an officer or employee of the executive branch, except as provided under Subsection (2)(b);
  - (b) is applicable to an officer or employee of higher education, unless higher education pays the costs of the travel expenses; and
  - (c) may be applicable to a government entity that is not included under Subsection (2)(a), if the government entity adopts the travel expense provisions by reference to:
    - (i) this section; or
    - (ii) the rule establishing the travel expense provisions.
- (3) The Division of Finance shall make the travel expense rules on the basis of:
  - (a) a mileage allowance; and
  - (b) reimbursement for other travel expenses incurred.
- (4) The travel expense rules may allow modification, when justified, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business.
- (5) (a) An officer or employee of the executive branch may not incur obligations for travel outside Utah without the advance approval of the director of the Division of Finance.
- (b) The director of the Division of Finance may delegate the authority to approve travel outside the state to an executive director or a designee of

- the executive director of a state department or agency.
- (c) The approval under Subsection (5)(a) or (b), shall include a certification as to the availability of funds.
- (6) A member of a board may decline to receive travel expenses for the member's service.

### **Sample Boards, Commissions, and Councils Affected**

The following are a sample of 150 of the boards affected by the changes.

#	Sample Board
1	Advisory Council for the Utah Schools for the Deaf and the Blind
2	Agricultural and Wildlife Damage Prevention Board
3	Agricultural Advisory Board
4	Alcoholic Beverage Control Commission
5	Antidiscrimination and Labor Advisory Council
6	Art Placement Subcommittee to the State Capitol Preservation Board
7	Art Collection Committee
8	Authority Board
9	Bail Bond Surety Oversight Board
10	Bail Bond Recovery Licensure Board
11	Bear River Compact Commission
12	Board of Financial Institutions
13	Board of Credit Union Advisors
14	Board of Oil, Gas, and Mining
15	Board of trustees of the State Post-Retirement Benefits Trust Fund
16	Board of Pardons and Parole
17	Board of State History
18	Board of Water Resources
19	Career Service Review Board
20	Child Abuse Advisory Council
21	Child Care Advisory Committee
22	Coal Miner Certification Panel
23	Commission on Civic and Character Education
24	Committee of Consumer Services

#	Sample Board
25	Concealed Weapon Review Board
26	Conservation Commission
27	Construction Services Commission
28	Coordinating Council for Persons with Disabilities
29	Constitutional Defense Council
30	Citizens and County Officials Advisory Committee
31	Procurement Policy Board
32	Creation of Peace Officer Standards and Training Council
33	Crime Victim Reparations Board
34	Decision and Action Committee
35	Drinking Water Board
36	Driver License Medical Advisory Board
37	DUR Board
38	Emergency Management Administration Council
39	Employment Security Act
40	Executive Residence Commission
41	Families, Agencies, and Communities Together State Council
42	Fish Health Policy Board
43	Forensic Mental Health Coordinating Council
44	Forestry, Fire, and State Lands Advisory Council
45	Governor's Rural Partnership Board
46	Hazardous Chemical Emergency Response Commission
47	Health Advisory Council.
48	Heritage Trees Advisory Committee
49	Housing Loan Fund Board
50	Indigent Defense Funds Board
51	Investment Advisory Committee
52	Job Enhancement Committee
53	Kurt Oscarson Children's Organ Transplant Coordinating Committee

#	Sample Board
54	Labor Relations Board
55	Land Use and Eminent Domain Advisory Board
56	Legislative Compensation Commission
57	Liquefied Petroleum Gas Board
58	Livestock Brand Board
59	Livestock Market Committee
60	Medical Education Council
61	Mine Safety Technical Advisory Council
62	Motor Carrier Advisory Board
63	Motor Vehicle Review Committee
64	Motor Vehicle Safety Inspection Advisory Council
65	Municipal Government Fiscal Committee
66	Museum Services Advisory Board
67	Native American Remains Review Committee
68	Navajo Revitalization Fund Board
69	Occupational Safety and Health Advisory Council
70	Online Court Assistance Program Policy Board
71	Paraeducator to Teacher Scholarship Program
72	Permanent Community Impact Fund Board
73	Pesticide Committee
74	Pete Suazo Utah Athletic Commission
75	Private Activity Bond Review Board
76	Private Investigator Hearing and Licensure Board
77	Privatization Policy Board
78	Procurement Appeals Board
79	Quality Growth Commission
80	Radiation Control Board
81	Radiology Technologist Licensing Board
82	Real Estate Appraiser Licensing and Certification Board

#	Sample Board
83	Real Estate Commission
84	Regional Advisory Councils
85	Regional Council on Workforce Services
86	Residential Mortgage Regulatory Commission
87	Resource Development Coordinating Committee
88	Rocky Mountain Center for Occupational and Environmental Health Advisory Board
89	Search and Rescue Advisory Board
90	Securities Commission
91	Small Business Assistance Program
92	Solid and Hazardous Waste Control Board
93	State Charter School Board
94	State Elected Official and Judicial Compensation Commission
95	State Grazing Advisory Board
96	State Weed Committee
97	State Charter School Finance Authority
98	State Council on Workforce Services
99	State Records Committee
100	State Records Committee
101	State-Owned Art Collections Inventory Program Committee
102	State Money Management Council
103	State Building Board
104	State Emergency Medical Services Committee
105	State Bonding Commission
106	State Building Ownership Authority
107	State Armory Board
108	State Library Board
109	Technology Initiative Advisory Board
110	Technology Advisory Board
111	The Utah Science Technology and Research Governing Authority

#	Sample Board
112	Title and Escrow Commission
113	Traffic Management Committee
114	Transportation Commission
115	Traumatic Brain Injury Advisory Committee
116	Uintah Basin Revitalization Fund Board
117	Underground Facilities Damage Dispute Board
118	Uniform Building Code Commission
119	Utah State Retirement Board
120	Utah Children's Health Insurance Program Advisory Council
121	Utah International Trade Commission
122	Utah Pioneer Communities Advisory Board
123	Utah Business Resource Centers Advisory Board
124	Utah Motor Vehicle Franchise Advisory Board
125	Utah Science Technology and Research Governing Authority Advisory Council
126	Utah Substance Abuse and Anti-Violence Coordinating Council
127	Utah Education Network
128	Utah Digital Health Service Commission
129	Utah Fire Prevention Board
130	Utah State Scenic Byway Committee
131	Utah Health Care Workforce Financial Assistance Program Advisory Committee
132	Utah Transparency Advisory Board
133	Utah Powersport Vehicle Franchise Advisory Board
134	Utah Arts Council Board of Directors
135	Utah Comprehensive Health Insurance Pool
136	Utah Commission on Uniform State Laws
137	Utah College of Applied Technology Board of Trustees
138	Utah Horse Racing Commission
139	Utility Facility Review Board
140	Veterans' Memorial Park Board

#	Sample Board
141	Veterans' Nursing Home Advisory Boards
142	Veterans' Advisory Council
143	Voting Equipment Selection Committee
144	Water Quality Board
145	Water Development Coordinating Council
146	Wildlife Board
147	Workers' Compensation Advisory Council
148	Workforce Appeals Board
149	Youth Court Board
150	Youth Parole Authority

### **Alternative Board and Commission Per Diem and Travel Expense Provisions**

The following 11 boards and commissions have been excluded from draft legislation because per diem and travel expenses were either set in statute or not allowed by statute. Including them may affect a fiscal note.

Entity	Per Diem and Travel Expense Provisions	Reference
Board of Control of the State Law Library	not allowed	9-7-301
Ratification Delegates	amounts set in statute	20A-15-201
Utah Defined Contribution Risk Adjuster	not allowed	31A-42-201
State Board of Education the Interpreters Certification Board	different expense provisions	53A-26a-201
Naturopathic Formulary Advisory Peer Committee	not allowed	58-71-202
Administrative Rules Advisory Committee	not allowed	58-77-204
Rate Committee	not allowed	63A-1-114
Information Technology Rate Committee	not allowed	63F-1-302



Entity	Per Diem and Travel Expense Provisions	Reference
A special committee appointed advise and assist the Utah Commission on Aging	not allowed	63M-11-203
Rate Committee	not allowed	67-19-11
This is the Place Foundation	per diem and travel expenses established by the board of trustees not by the Division of Finance	79-4-703

#### Other Board and Commission Provisions

The following two councils and committees, though dissimilar in some way, have been included in draft legislation to make them uniform with other similar entities.

Entity	Per Diem and Travel Expense Provisions	Reference
Retirement Membership Council	travel expenses but not per diem are mentioned	49-11-202
State Records Committee	per diem but not travel expenses are mentioned	63G-2-502

For comments or questions contact Ben Christensen or Emily Brown, at the Office of Legislative Research and General Council at 801-538-1032.